



House of Representatives

General Assembly

File No. 306

January Session, 2001

Substitute House Bill No. 6812

House of Representatives, April 17, 2001

The Committee on Labor and Public Employees reported through REP. DONOVAN of the 84th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING UNEMPLOYMENT COMPENSATION NOTICES AND PROCEDURES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 31-240 of the general statutes is repealed and the
2 following is substituted in lieu thereof:

3 (a) Claims for benefits shall be made, in accordance with such
4 regulations as the administrator may prescribe, at the public
5 employment bureau or branch most easily accessible either from the
6 individual's place of residence or from the place of [his] the
7 individual's most recent employment, as designated by the
8 administrator.

9 (b) Not later than January 1, 2002, the administrator shall make
10 notice of claim forms available in both English and Spanish.

11 (c) The administrator shall ensure that a sufficient number of

12 employees proficient in both English and Spanish are available to
13 provide assistance to claimants who elect to file their claims by
14 telephone utilizing the tele-benefits claim system.

15 Sec. 2. Section 31-241 of the general statutes is repealed and the
16 following is substituted in lieu thereof:

17 (a) (1) The administrator, or a deputy or representative designated
18 by [him] the administrator and hereinafter referred to as an examiner,
19 shall promptly examine the initiating claim and, on the basis of the
20 facts found by [him] the administrator or an examiner, shall determine
21 whether or not such claim is valid and, if valid, the weekly amount of
22 benefits payable and the maximum possible duration [thereof. He] of
23 benefits. The administrator or an examiner shall promptly notify the
24 claimant of the decision and the reasons [therefore] for the decision,
25 which notification shall set forth the provision of this section for
26 appeal. The administrator or an examiner shall promptly examine each
27 claim for a benefit payment for a week of unemployment and, on the
28 basis of the facts found by [him] the administrator or an examiner,
29 shall determine whether or not the claimant is eligible to receive such
30 benefit payment for such week and the amount of benefits payable for
31 such week. The determination of eligibility by the administrator or an
32 examiner shall be based upon evidence or testimony presented in such
33 a manner as the administrator shall prescribe, including in person, in
34 writing, by telephone or by other electronic means at a hearing called
35 for such purpose. The administrator or an examiner shall provide, at
36 no cost to either party, a qualified interpreter at the hearing at the
37 request of a party or upon the determination by the administrator or
38 examiner that a qualified interpreter is necessary. The administrator or
39 examiner shall administer a separate oath or affirmation to each
40 qualified interpreter who participates in a hearing which shall obligate
41 the interpreter to interpret the proceedings in a complete and accurate
42 manner. Notice of the decision and the reasons [therefore] for the
43 decision shall be given to the claimant. The employers against whose

44 accounts charges may be made due to any benefits awarded by the
45 decision shall be notified of the initial determination of the claimant's
46 benefit entitlement at the time notice is given to the claimant, which
47 notification shall set forth the provisions of this section for appeal,
48 provided any employer who claims that the claimant is ineligible for
49 benefits because [his] the claimant's unemployment is due to the
50 existence of a labor dispute at such employer's factory, establishment
51 or other premises, shall be notified of the decision and the reasons
52 [therefore] for the decision, whether or not benefits awarded by the
53 decision might be charged against such employer's account. The
54 employer's appeal rights shall be limited to the first notice [he] the
55 employer is given in connection with a claim [which] that sets forth
56 [his] the employer's appeal rights, and no issue may be appealed if
57 notice of such issue and the right to appeal such issue had previously
58 been given.

59 (2) Notwithstanding any provisions of this chapter, [to the
60 contrary,] whenever the employer, after receiving notice of such
61 hearing, fails to appear at the hearing or fails to timely submit a
62 written response in a manner prescribed by the administrator, such
63 employer's proportionate share of benefits paid to the claimant prior to
64 the issuance of a decision by a referee under section 31-242 for any
65 week beginning prior to the forty-second day after the end of the
66 calendar week in which the employer's appeal was filed shall be
67 charged against such employer's account and the claimant shall not be
68 charged with an overpayment with respect to such benefits pursuant
69 to subsection (a) of section 31-273.

70 (3) The decision of the administrator shall be final and benefits shall
71 be paid or denied in accordance [therewith] with the decision unless
72 the claimant or any of such employers, within twenty-one calendar
73 days after such notification was mailed to [his] the last-known address,
74 files an appeal from such decision and applies for a hearing, provided
75 [(1)] (A) any such appeal [which] that is filed after such twenty-one-

76 day period may be considered to be timely filed if the filing party
77 shows good cause, as defined in regulations adopted pursuant to
78 section 31-249h, for the late filing, [(2)] (B) if the last day for filing an
79 appeal falls on any day when the offices of the Employment Security
80 Division are not open for business, such last day shall be extended to
81 the next business day, and [(3)] (C) if any such appeal is filed by mail,
82 such appeal shall be considered timely filed if it was received within
83 such twenty-one-day period or bears a legible United States postal
84 service postmark which indicates that within such twenty-one-day
85 period it was placed in the possession of such postal authorities for
86 delivery to the appropriate office. Posting dates attributable to private
87 postage meters shall not be considered in determining the timeliness of
88 appeals filed by mail. Where the administrator or examiner has
89 determined that the claimant is eligible for benefits, benefits shall be
90 paid promptly in accordance with the determination regardless of the
91 pendency of the period to file an appeal or the pendency of such
92 appeal. [No examiner shall participate in any case in which he is an
93 interested party.] Any person who has filed a claim for benefits
94 pursuant to an agreement entered into by the administrator with the
95 proper agency under the laws of the United States, whereby the
96 administrator makes payment of unemployment compensation out of
97 funds supplied by the United States, may in like manner file an appeal
98 from the decision of such claim and apply for a hearing, and the
99 United States or the agency [thereof which] of the United States that
100 had employed such person may in like manner appeal from the
101 decision on such claim and apply for a hearing.

102 (4) No examiner shall participate in any case in which the examiner
103 is an interested party.

104 (b) The administrator shall adopt regulations, in accordance with
105 the provisions of section 31-244 and chapter 54, effective July 1, 1992,
106 establishing procedures and guidelines necessary to implement the
107 provisions of this section. Such regulations shall prescribe a minimum

108 number of days of advance notice to be afforded parties prior to a
109 hearing and standards for determining the timeliness of written
110 responses to hearing notices.

111 (c) Not later than January 1, 2002, the administrator shall issue all
112 vital written notices and materials explaining the provisions of this
113 section in both English and Spanish.

114 (d) The administrator shall identify claimants who need language
115 assistance and shall promptly transmit the identity of such claimants to
116 the Employment Security Appeals Division in the event an appeal of
117 the claim is taken pursuant to section 31-244a.

118 (e) For purposes of this section, "vital written notices" includes
119 applications, including tele-benefits claim forms, notices of hearing,
120 notices advising claimants of the availability of qualified interpreters,
121 decisions by examiners, notices specific to a claimant's claim for
122 benefits and booklets regarding eligibility and appeal rights and
123 procedures; and "qualified interpreter" means an individual who has
124 (1) a demonstrated proficiency in both English and Spanish, (2)
125 participated in orientation and training that includes the skills and
126 ethics of interpreting, (3) fundamental knowledge in both English and
127 Spanish of any specialized terms or concepts peculiar to the
128 unemployment compensation system, (4) appropriate sensitivity to the
129 culture of the person with limited English proficiency, and (5) a
130 demonstrated ability to convey information accurately in both English
131 and Spanish.

132 (f) Nothing in this section shall be construed to prohibit the
133 administrator from issuing any other unemployment compensation
134 notices and materials in both English and Spanish and in any other
135 language or from making interpreters proficient in a language other
136 than Spanish available to claimants.

137 Sec. 3. Section 31-244a of the general statutes is repealed and the

138 following is substituted in lieu thereof:

139 (a) The conduct of hearings and appeals, including [notice thereof]
140 notices of hearings and appeals, shall be in accordance with rules of
141 procedure prescribed by the board in regulations adopted pursuant to
142 section 31-237g. No formal pleadings shall be required, beyond such
143 notices as the board provides for by its rules of procedure. The referees
144 and the board shall not be bound by the ordinary common law or
145 statutory rules of evidence or procedure. They shall make inquiry in
146 such manner, through oral testimony and written and printed records,
147 as is best calculated to ascertain the substantial rights of the parties and
148 carry out justly the provisions of this chapter. A record shall be
149 prepared of all testimony and proceedings at any hearing before a
150 referee and before the board but need not be transcribed unless an
151 appeal is taken from the referee's or board's decision, as the case may
152 be.

153 (b) The Employment Security Appeals Division shall provide, at no
154 cost to either party, a qualified interpreter at a hearing or appeal at the
155 request of a party or upon the determination by a referee that an
156 interpreter is necessary. The referee shall administer a separate oath
157 or affirmation to each qualified interpreter who participates in a
158 hearing or appeal which shall obligate the interpreter to interpret the
159 proceedings in a complete and accurate manner.

160 (c) Not later than January 1, 2002, the Employment Security Appeals
161 Division shall issue all vital written notices and materials explaining
162 the provisions of this section in both English and Spanish.

163 (d) For purposes of this section, "vital written notices" includes
164 notices of appeal rights, notices of hearing, notices advising claimants
165 of the availability of qualified interpreters and booklets regarding
166 appeal rights and procedures; and "qualified interpreter" means an
167 individual who has (1) a demonstrated proficiency in both English and
168 Spanish, (2) participated in orientation and training that includes the

169 skills and ethics of interpreting, (3) fundamental knowledge in both
170 English and Spanish of any specialized terms or concepts peculiar to
171 the unemployment compensation system, (4) appropriate sensitivity to
172 the culture of the person with limited English proficiency, and (5) a
173 demonstrated ability to convey information accurately in both English
174 and Spanish.

175 (e) Nothing in this section shall be construed to prohibit the appeals
176 division from issuing any other unemployment compensation notices
177 and materials in both English and Spanish and in any other language
178 or from making interpreters proficient in a language other than
179 Spanish available to claimants.

180 Sec. 4. (NEW) Beginning June 30, 2002, and every two years
181 thereafter, the administrator shall conduct a survey of each public
182 employment bureau or branch, tele-benefits call center and appeals
183 division office to determine:

184 (1) The number of public contact positions in each public
185 employment bureau or branch, tele-benefits call center and appeals
186 division office;

187 (2) The number of bilingual employees in public contact positions in
188 each public employment bureau or branch, tele-benefits call center and
189 appeals division office;

190 (3) The number and percentage of non-English-speaking persons,
191 sorted by native language, who are served by each public employment
192 bureau or branch, tele-benefits call center and appeals division office;

193 (4) The number of anticipated vacancies in public contact positions
194 in each public employment bureau or branch, tele-benefits call center
195 and appeals division office;

196 (5) Whether the combined use of contracted telephone-based
197 interpreter services and bilingual employees in public contact positions

198 adequately serves the needs of persons with limited English
199 proficiency who are served by the unemployment compensation
200 system; and

201 (6) Any other information necessary to determine whether the needs
202 of persons with limited English proficiency are being met in the
203 adjudication of unemployment compensation claims and appeals.

LAB *JOINT FAVORABLE SUBST.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: Cost

Affected Agencies: Department of Labor

Municipal Impact: None

Explanation**State Impact:**

The bill requires the administrator of the unemployment compensation system not later than January 1, 2002 to provide notices that unemployment compensation claim forms are available in both English and Spanish. The administrator shall also ensure that a sufficient number of employees proficient in both English and Spanish are available to provide assistance to claimants who elect to file their claims by telephone utilizing the tele-benefits claim system.

The administrator or examiner shall provide, at no cost to either party at an unemployment compensation hearing or appeal, a qualified interpreter at the request of a party or upon the determination by the administrator. The administrator not later than January 1, 2002, shall issue all vital written notices and materials explaining these provisions in both English and Spanish.

There is a \$148,750 cost for the Department of Labor as a result of this bill. The department will incur a one-time cost of \$120,000 for

translating and programming forms into Spanish. The department would need the assistance of the Department of Information Technology who would charge them through their revolving fund or contract with an outside consultant for their programming services. The department will also hire intermittent interviewers who would be able to serve the interpreting function and handle inquiries on the tele-call centers required by the bill. The department hires intermittent Interviewers when extra help is needed for the unemployment process. They are paid hourly and do not receive benefits. The intermittent workers would be trained in hearing procedures and legal training associated with fact finding interviews and appeals. This training can be handled within the agency's resources. The department holds approximately 1,500 fact-finding conferences and 500 appeals on an annual basis. The cost for hiring intermittent workers would be \$16,250 for fact finding conferences and \$12,500 for 500 appeals per year.

OLR Bill Analysis

sHB 6812

AN ACT CONCERNING UNEMPLOYMENT COMPENSATION NOTICES AND PROCEDURES.**SUMMARY:**

This bill requires the state to provide interpreters proficient in both English and Spanish at unemployment compensation hearings and appeals at no cost to either party. It also requires certain unemployment compensation notices to be available in both English and Spanish by January 1, 2002.

The bill requires the labor commissioner to:

1. ensure that a sufficient number of employees proficient in both English and Spanish are available for claimants using the tele-benefits claim system (the tele-benefits claim system currently allows claimants to file continued compensation claims by telephone);
2. identify all claimants who need language assistance and, if an appeal is filed, to transmit the identity of such claimants to the Employment Security Appeals Division; and
3. conduct a survey every two years beginning June 30, 2002, of unemployment compensation offices to determine whether the needs of people with limited English proficiency are being met.

EFFECTIVE DATE: October 1, 2001

QUALIFIED INTERPRETERS

Under the bill, qualified interpreters must be provided at the request of a party or when the examiner, referee, or labor commissioner decides one is necessary. Such interpreters must be sworn in and obligated to interpret the proceedings in a complete and accurate

manner.

A qualified interpreter is one who:

1. is proficient in English and Spanish,
2. has participated in skills and ethics of interpreting training,
3. has a fundamental knowledge in both English and Spanish of terms and concepts peculiar to the unemployment compensation system,
4. has appropriate cultural sensitivity, and
5. has demonstrated an ability to translate accurately in English and Spanish.

The bill specifies that it does not prohibit making interpreters proficient in languages other than Spanish available to claimants.

NOTICES

By January 1, 2002, the labor commissioner and the Employment Security Appeals Division must make notice of claims forms, vital written notices, and materials explaining claims and appeals available in both English and Spanish.

“Vital written notices” include applications, including tele-benefits claim forms; notices of appeal rights and hearings; notices advising claimants of the availability of qualified interpreters; decisions by examiners; notices specific to a claimant’s claim for benefits; and booklets regarding eligibility, appeal rights, and procedures.

The specifies that neither the labor commissioner nor the Employment Security Appeals Division is prohibited from issuing any other unemployment compensation notices and materials in both English and Spanish, and in any other language.

SURVEY

The labor commissioner must determine:

1. the number of public contact positions and the number of anticipated vacancies in such positions in unemployment compensation offices, tele-benefit call centers, and appeals division offices;
2. the number of bilingual employees in such positions;
3. the number and percentage of non-English speaking people served by those offices (sorted by native language); and
4. any other information necessary to determine whether the needs of people with limited English proficiency are being met, including whether the combined use of contracted telephone-based interpreter services and bilingual employees in public contact positions meets those needs.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 9 Nay 5